

MINUTES

PROPERTY AND RIGHT-OF-WAY COMMITTEE MEETING THURSDAY, JANUARY 19, 2006, 10:00 A.M. CITY HALL 8TH FLOOR – COMMISSION CONFERENCE ROOM

Members Present:

Peter R. Partington, City Engineer
Bob Dunckel, Assistant City Attorney
Tony Irvine, City Surveyor
Kathy Connor, Parks Supervisor
Julie Leonard, Assistant Utilities Services Director
James Cromar, Planner III
Tom Terrell, Public Works Maintenance Manager

Staff Present:

Victor Volpi, Senior Real Estate Officer
Anthony Fajardo, Planning & Zoning
Phil Thornburg, Director Parks & Recreation
Terry Rynard, Assistant Director Parks & Recreation
Jose DiCienzo, Distribution & Collection Supervisor
Miguel Arroyo, Water and Wastewater Treatment Manager
Judy Johnson, Administrative Assistant I
Eileen Furedi, Clerk II

Guests Present:

Fred McMurtrey, BellSouth
Vic Beninate, BellSouth

Peter Partington called the meeting at 10:07 A.M. and stated this is a Committee with the responsibility of advising the City Manager and City Commission on matters connected with City property and public right-of-way.

ITEM ONE: APPROVAL OF DECEMBER 15, 2005 MINUTES

**MOTION BY TOM TERRELL TO APPROVE MINUTES. SECONDED BY JULIE LEONARD.
MOTION PASSED UNANIMOUSLY.**

ITEM TWO: EASEMENT TO BELL SOUTH – RIVERSIDE PARK

Victor Volpi introduced item stating Fred McMurtrey with BellSouth would like a positive recommendation to place a 5-foot, 5-inch high, remote, digital, terminal cabinet in Riverside Park. Victor Volpi said the proposed easement is 15-feet x 20-feet. Victor Volpi introduced Fred McMurtrey.

Mr. McMurtrey introduced Mr. Vic Beninate of Bellsouth. Mr. McMurtrey asked if there were any questions regarding the item and stated he has provided back up for the Committee's review.

Bob Dunckel asked about length and width of the cabinet, and stated his concerns as to the size of the box at the proposed.

Mr. McMurtrey said the RT remote digital, terminal cabinet size was approximately 4-feet wide x 7-feet long x 5 ½-feet high, and would be placed above the ground. Mr. McMurtrey said in addition to the terminal, there would be a small propane generator measuring 2 ½-feet wide x 2 ½-feet long x 3-feet high, and the RT terminal has a four (4) to eight (8) hour battery back-up pack and the generator would provide power to the RT terminal when the RT battery back-up ran out.

Tony Irvine acknowledged the fact that propane generators are not as loud as gas-powered generators. He asked what the decibel level of the generator was. Mr. McMurtrey said he did not know the decibel level and would obtain it for the Committee, if necessary. Mr. McMurtrey said the generator is for power outages and would be used to provide non-interrupted phone service during the outages.

Mr. Beninate said the advantage of the technology was that fiber cable is now being used and pointed out that fiber cable in air was only one cable and puts less stress on poles, compared to the cable that used to be run. Mr. Beninate said the advantage to a propane generator is that it is physically easier to keep running. Mr. Beninate said having the RT terminal at this location allows faster recovery time for the community. Mr. Beninate said the location of the RT terminal has been a problem, as homeowners do not want them on their property. Mr. Beninate said he has found that other sites previously looked at already contain other types of utilities boxes.

Bob Dunckel asked about the parameter of the easement. He said if deemed appropriate, he would like language pertaining to expiration or end time be included in the document, as well as a defined size of the easement that would be very close in size to the terminal and generator dimensions. Mr. Beninate said putting language into document that limits time and size would be acceptable. Mr. Beninate said if Bellsouth sees they need more time or a different size is required, they would come back to City to discuss the change modification.

James Cromar asked how the park sites were chosen for placement of this type of equipment, if other sites had been considered, have private property owners been asked if this equipment could be placed on their property and what would prevent other types of equipment boxes to be placed in parks, as well. Mr. Beninate said the locations are chosen by the area the terminal will be servicing and pointed out that Kay Park had a box.

Mr. Beninate said if the park location is recommended by the Committee and approved by the City Commission, Bellsouth would pay a fee to assist the City with the cost of landscaping and maintenance. Mr. McMurtrey said a survey was conducted and had not identified an alternate location, which was more suitable. Mr. McMurtrey said Riverside Park is a heavy residential area and

location options were limited. Mr. McMurtrey said Bellsouth wants to install the RT terminals close to their backbone and crossbox locations.

Phil Thornburg stated that the Parks and Recreation Department is opposed to this location. He said the location Bellsouth has chosen was used a lot and a utility cabinet in this area would have an impact on park activity. He said at one time, a cellular company wanted to place a flagpole type of utility equipment in Riverside Park and even though the equipment would be a benefit to the neighborhood, it was still opposed by the residents. He said he believes an alternate site should be considered for the Bellsouth RT terminal.

Discussion followed as to Bellsouth's legal right to place equipment within City right-of-way, the effects on communities when a site can not be located, the physical restrictions at Riverside Park and the Riverside community, the possibility of the Riverside community wishing to assist in finding a suitable location, Parks and Recreation's objection to the RT terminal being located in Riverside Park, the demand for this technology, the possibility of the equipment being placed underground and Bellsouth's opportunity to work with Riverside community at an upcoming City Planning Department meeting with the Riverside neighborhood.

MOTION BY BOB DUNCKEL TO CONTINUE, AND BELLSOUTH SHOULD PARTNER WITH CITY MANAGER'S OFFICE AND LOCAL CIVIC ASSOCIATION WITH VIEW TOWARD FINDING A PRIVATE PROPERTY LOCATION WHERE A PORTION OF THE EASEMENT COULD BE PLACED ON PRIVATE PROPERTY, AND A PORTION OF PUBLIC RIGHT-OF-WAY AND BELLSOUTH TO WORK WITH PLANNING DEPARTMENT TO FIND A LARGE ENOUGH PROJECT WHERE THIS EASEMENT COULD BE LOCATED. SECONDED BY TONY IRVINE.

MOTION PASSED UNANIMOUSLY.

ITEM THREE: EASEMENT TO BELLSOUTH – GEORGE ENGLISH PARK

Victor Volpi introduced item stating that Fred McMurtrey with BellSouth would like a positive recommendation to place a 5-foot, 5-inch high remote, digital, terminal cabinet in George English Park. Victor Volpi said the proposed easement is 20-feet x 25-feet and was discussed at the August 18, 2005 Property and Right-of-Way meeting.

Phil Thornburg said this location is different from the Riverside Park location. He said Parks and Recreation is supportive of the location and would like to look at "dressing up" and tying the Bellsouth equipment into the lift station, so it looks like one piece of equipment.

Tom Terrell stated that he was concerned about how close the Bellsouth equipment was to the pump station. He asked Miguel Arroyo if the equipment was at least 20 - 25 feet away from the edge of the property line and if there was enough space at the proposed location. Miguel Arroyo said he was not sure if the distance had been addressed. Bob Dunckel recommended Bellsouth work with proper City staff members to integrate this concern into documentation to be presented at next PROW meeting in February.

Terry Rynard, Assistant Director Parks & Recreation, said Bellsouth has been waiting for an estimate on the landscaping from Parks and Recreation. She said the landscaping estimate has taken time and wanted to make the PROW Committee aware of this delay.

MOTION BY BOB DUNCKEL TO CONTINUE, AND THAT BELLSOUTH WORK WITH APPROPRIATE CITY STAFF TO WORK OUT TECHNICAL DETAILS AND BRING THIS ITEM BACK TO THE FEBRUARY PROPERTY AND RIGHT-OF-WAY MEETING. SECONDED BY TOM TERRELL.

Tony Irvine said the equipment could be camouflaged and pointed out equipment in the photos in the background packet, Exhibit B.

MOTION PASSED UNANIMOUSLY.

ITEM FOUR: VACATION OF EASEMENT

Victor Volpi introduced item stating that Jose DiCienzo, Distribution & Collection Supervisor would like a positive recommendation to vacate the Palmdale Pump Station on NE 6th Avenue. Victor Volpi said the property is 75-feet x 65-feet and is held by the City as an easement. Victor Volpi introduced Jose DiCienzo, Distribution & Collection, Supervisor and Miguel Arroyo, Assistant Utility Services Director, Operations.

Jose DiCienzo said Broward County has sewerred this area, but they are not sending the sewerage to the City of Fort Lauderdale. He said this pump station never has and would not go into service. He said the City was incurring the cost of the pump station by maintaining it. He stated that it was an economic drain and the City could remove the pump station or sell it, as is.

Discussion followed as to the pump station's maintenance, the station being in Oakland Park, the need for the City to vacate, the removal of the pump station being an operational decision rather than a Commission decision, the possibility of Broward County wanting property "as is", the building being functional, School Board of Broward County's possible interest, the legal process for divesting the City's interest in the property and cost effective ways to divest the City's interest in the property.

MOTION BY TONY IRVINE TO CONTINUE PENDING THE SENIOR REAL ESTATE OFFICER CONTACTING AND NEGOTIATING WITH THE SCHOOL BOARD OF BROWARD COUNTY, AND ANY INTERESTED PARTY, AND ARRIVE AT A SUITABLE DISPOSITION FOR ALL PARTIES INVOLVED. TO BE BROUGHT TO MARCH 2006 PROW MEETING. SECONDED BY JAMES CROMAR.

MOTION PASSED UNANIMOUSLY.

WALK ON PRESENTED BY BOB DUNCKEL

EASEMENT TO FPL

From the December 15, 2005 PROW Meeting

Bob Dunckel said the Property and Right-of-Way Committee approved this easement to Florida Power and Light (FPL), subject to striking certain text that appeared in the easement submitted to FPL. He asked the Committee to review the revised document and pointed out that FPL had left certain language in the document that they had agreed to remove at the December 15th meeting. He

said the City Attorney's office is seeking clarification from the PROW Committee regarding the portion of the text to be struck from the easement document.

Discussion followed as to the language that was not removed, it being too restrictive and the understanding that at the December 15th meeting, it was determined that the entire last part of the paragraph was to be removed.

MOTION BY TONY IRVINE FOR THE PROW COMMITTEE TO RECOMMEND THAT THE CITY ATTORNEY'S OFFICE DOES NOT ACCEPT THE EASEMENT UNLESS THE LANGUAGE IN THE OBJECTIONAL PARAGRAPH BEGINNING WITH PHRASE "PROVIDED, HOWEVER, AND BY THE EXECUTION AND DELIVERY HEREOF GRANTOR SO EXPRESSLY AGREES THAT NO PORTION OF THE RIGHT-OF-WAY SHALL BE EXCAVATED, ALTERED, OBSTRUCTED, IMPROVED, SURFACED OR PAVED WITHOUT THE PRIOR WRITTEEN PERMISSION OF THE GRANTEE, OR ITS SUCCESSORS OR ASSIGNS, AND NO BUILDING OR WELL, IRRIGATION SYSTEM, STRUCTURE OBSTRUCTION OR IMPROVEMENT (INCLUDING ANY IMPROVEMENTS FOR RECREATIONAL ACTIVITIES) SHALL BE LOCATED, CONSTRUCTED, MAINTAINED OR OPERATED OVER, UNDER, UPON OR ACROSS SAID RIGHT-OF-WAY EASEMENT BY THE GRANTOR, OR THE HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS OR ASSIGNS OF GRANTOR", BE DELETED. SECONDED BY TOM TERRELL.

MOTION PASSED UNANIMOUSLY.

Meeting adjourned at 11:30 a.m.